

1 **WO**

2  
3  
4  
5  
6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**

8 Federal National Mortgage Association,  
9  
10 Plaintiff,

No. CV11-1227-PHX-DGC

**ORDER**


11 vs.

12 Marshall Home; Independent Rights Party,  
13 Defendants.  
14

15 The Court has received a document from Defendant Marshall Home titled  
16 "Preliminary Report." Doc. 56. The report accuses Plaintiff's counsel of fraud and the  
17 Court of misrepresenting its status. The report does not address other matters in this case.

18 Attached to this order are the following documents: Entry of Default, Final  
19 Judgment, and Permanent Injunction Order (Doc. 50); Order (granting attorneys' fees and  
20 in the amount of \$70,192.50 and costs in the amount of \$1,219.00) (Doc. 52), and Notice  
21 of Lodging of Form of Judgment (with attached form of judgment) (Docs. 53, 53-1).  
22 Because it appears Defendant was incarcerated when each of these items was filed, he  
23 may not have had notice of Plaintiff's request for the orders. If Defendant wishes to seek  
24 relief from these orders, he shall do so on or before **May 4, 2012**.

25 Dated this 5th day of April, 2012.  
26  
27  
28



---

David G. Campbell  
United States District Judge

1 **WO**

2  
3  
4  
5  
6 IN THE UNITED STATES DISTRICT COURT  
7 FOR THE DISTRICT OF ARIZONA

8  
9 Federal National Mortgage Association,  
10 Plaintiff,

No. CV11-01227-PHX-DGC

**ORDER**

11 vs.

12 Marshall E. Home; Independent Rights  
13 Party,  
14 Defendants.

15 Plaintiff Federal National Mortgage Association (“Fannie Mae”) brought its  
16 complaint (Doc. 1) after Defendants Marshall E. Home and Independent Rights Party  
17 used the name “Federal National Mortgage Association” to execute special warranty  
18 deeds transferring a number of Fannie Mae-owned properties to Defendants. On  
19 September 22, 2011, the Court entered default judgment against Defendants on all seven  
20 counts, found Plaintiff entitled to statutory damages in the amount of \$141,200, entered a  
21 permanent injunction against Defendants, invalidated the special warranty deeds filed by  
22 Defendants, and cancelled Home’s registration of the trade name “Federal National  
23 Mortgage Association” with the Arizona Secretary of State. Doc. 50. The Court granted  
24 Plaintiff’s request to seek attorneys’ fees in accordance with Local Rule of Civil  
25 Procedure 54.2. *Id.* at 5.

26 Plaintiff has filed a motion for attorneys’ fees and costs. Doc. 51. No response  
27 has been filed, and the time for filing one has passed. *See* LRCiv 54.2(b)(3).  
28

1 Plaintiff seeks \$70,192.50 in attorneys' fees and \$1,219.00 in costs against  
2 Defendants pursuant to A.R.S. § 33-420(A). That section provides:

3 A person purporting to claim an interest in, or a lien or encumbrance  
4 against, real property, who causes a document asserting such claim to be  
5 recorded in the office of the county recorder, knowing or having reason to  
6 know that the document is forged, groundless, contains a material  
misstatement or false claim or is otherwise invalid is liable to the owner or  
beneficial title holder of the real property . . . reasonable attorney fees and  
costs of the action.

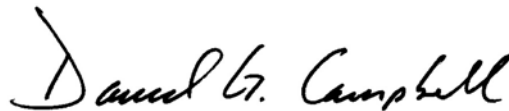
7 A.R.S. § 33-420(A).

8 Given the default judgment against Defendants on all counts in the complaint,  
9 including count three which alleged Defendants' wrongful efforts to claim an interest in  
10 and purport to hold title to the property evidenced by the special warranty deeds in  
11 violation of A.R.S. § 33-420(A), Plaintiff clearly is entitled to a fee award under that  
12 section. *See Allied Mortg. Group, Inc. v. Peter Strojnik, P.C.*, No. CV-08-0376, 2009  
13 WL 2581400 at \*5 (Ariz. App. Aug. 20, 2009). Having reviewed Plaintiff's supporting  
14 memorandum (Doc. 51, at 3-11) and counsel's declaration and statement of fees and  
15 costs (Docs. 51-1, 51-2, 51-3), the Court finds the requested fees and costs to be  
16 reasonable and appropriate.

17 **IT IS ORDERED:**

- 18 1. Plaintiff's motion for attorneys' fees and costs (Doc. 51) is **granted**.  
19 2. Plaintiff is awarded attorneys' fees in the amount of **\$70,192.50** and costs  
20 in the amount of **\$1,219.00**.

21 Dated this 3rd day of January, 2012.

22  
23 

24  
25 

---

David G. Campbell  
United States District Judge  
26  
27  
28

UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA

FEDERAL NATIONAL MORTGAGE  
ASSOCIATION,

Plaintiff,

v.

Marshall E. Home; Independent Rights  
Party,

Defendant.

CASE NO. CV11-1227-PHX DGC

**ENTRY OF DEFAULT, FINAL  
JUDGMENT, AND PERMANENT  
INJUNCTION ORDER**

This Court has considered the Motion for Entry of Default, Final Judgment, and Permanent Injunction made by Plaintiff FEDERAL NATIONAL MORTGAGE ASSOCIATION (“Fannie Mae”). When Defendants did not respond to the motion, the Court entered an order requiring them to respond by September 9, 2011. Doc. 46. Despite this additional time, Defendants have not answered the complaint, responded to the motion, or otherwise complied with the Court’s orders. See Docs. 43, 47. Having considered the *Eitel* factors and good cause appearing, the Court grants the Motion and enters the following Final Judgment and Permanent Injunction.

**IT IS ORDERED:**

1. Plaintiff’s motion for entry of default is **granted**.
2. Default judgment is entered in favor of Plaintiff and against Defendants on

Counts One through Seven of the Complaint.

3. Plaintiff Fannie Mae is awarded \$141,200.00 in statutory damages pursuant to A.R.S. § 33-420(A) and 12 U.S.C. § 1723a(e).

4. Defendants and any others who may be in active concert or participation with them who receive actual or constructive notice of this Order, including, but not limited to, employees, members, agents, and spouses of Defendants, are **permanently enjoined** from the following:

- (i) Doing business under the names of “Federal National Mortgage Association,” “Fannie Mae,” “FNMA,” or any other confusingly similar variation of the name “Federal National Mortgage Association”;
- (ii) Executing any documents on behalf of “Federal National Mortgage Association,” “Fannie Mae,” “FNMA,” or any other confusingly similar variation of the name “Federal National Mortgage Association”;
- (iii) Using the names “Federal National Mortgage Association,” “Fannie Mae,” “FNMA,” or any other similar variation of the name “Federal National Mortgage Association” in any capacity whatsoever;
- (iv) Recording or causing to be recorded any special warranty deed or any instrument attempting to convey title or impact property ownership related to any property currently owned or hereinafter acquired by Fannie Mae;

- (v) Holding themselves out as representatives, agents, or employees of “Federal National Mortgage Association,” “Fannie Mae,” “FNMA,” or any other confusing similar variation of the name “Federal National Mortgage Association”;
  - (vi) Transferring the name “Federal National Mortgage Association” that Defendant Marshall Home registered with the Arizona Secretary of State to any individual or entity, or taking any action regarding the name “Federal National Mortgage Association” registered with the Arizona Secretary of State;
  - (vii) Taking any action to further impact title to the real properties referenced in the Complaint (with the exception of Properties No. 10 and 19 (*see* Doc. 36 at 2 n.1)) or any other real properties owned or hereafter acquired by Fannie Mae. Such enjoined actions include, but are not limited to, selling, conveying, financing, refinancing, encumbering, leasing, or transferring title to any such properties;
  - (viii) Taking any other action to circumvent this Order and the rights of Fannie Mae with regard to real properties owned by Fannie Mae.
5. Each of the Special Warranty Deeds filed and recorded by Defendants with respect to the property listed on the Schedule of Properties attached hereto as **Exhibit A** (the “Properties”) shall be and is hereby declared void and is of no effect pursuant to A.R.S. § 33-420(A). Defendants shall execute a separate Quit Claim Deed for each of the Properties and record each such

Quit Claim Deeds with the appropriate county recorder's office on or before August 19, 2011. Should Defendants fail to execute and record the Quit Claim Deeds with the appropriate recorder's office on or before September 30, 2011, each of the Special Warranty Deeds filed and recorded by Defendants set forth in Exhibits F1-28 to the Complaint (excluding Exhibits F10 and 19) shall be and are hereby declared void and of no effect pursuant to A.R.S. § 33-420(A), and Plaintiff shall be entitled to thereafter record a copy of this Order with the appropriate recorders' offices to formally quiet title to each of the Properties. Plaintiff's filing of this Order with the appropriate recorder's office shall have the legal effect of judicially transferring title of these Properties to Plaintiff and forever extinguishing any claim to title that Defendants may make in or to any of the Properties.

6. Defendant Marshall Home's registration of the trade name "Federal National Mortgage Association" with the Arizona Secretary of State shall and is hereby void and cancelled pursuant to 12 U.S.C. § 1723a(e). Within five days of entry of this Order, Plaintiff shall provide a copy of this Order to the Arizona Secretary of State.
7. Plaintiff is entitled to post-judgment interest at a rate of .19% from the date judgment is entered until the date the judgment is paid pursuant to 18 U.S.C. § 1961.
8. Plaintiff's security bond shall be released by the clerk of the court upon entry of this Order.

Dated this 22nd day of September, 2011.

David G. Campbell

David G. Campbell  
United States District Judge



**EXHIBIT A**

**SCHEDULE OF PROPERTIES**

1. 17001 North 58th Way, Scottsdale, AZ 85254
2. 4205 East Molly Lane, Cave Creek, AZ 85331
3. 33621 North Rifleman, Cave Creek, AZ 85331
4. 11833 East Carol Avenue, Scottsdale, AZ 85259
5. 2019 West Wescott, Phoenix, AZ 85027
6. 5961 West Sack Drive, Glendale, AZ 85308
7. 14837 East Cerro Alto Drive, Fountain Hills, AZ 85268
8. 6711 North 19th Street, Phoenix, AZ 85016
9. 6087 North 85th Drive, Glendale, AZ 85305
10. 7615 West Crocus Drive, Peoria, AZ 85381
11. 15416 West Mercer Lane, Surprise, AZ 85379
12. 14262 West Shaw Butte Drive, Surprise, AZ 85739
13. 23258 North 88th Avenue, Peoria, AZ 85383
14. 9144 West Quail Avenue, Peoria, AZ 85382
15. 4529 East Renee Drive, Phoenix, AZ 85050
16. 6032 East Skinner, Cave Creek, AZ 85331
17. 4007 East Topeka Drive, Phoenix, AZ
18. 15252 West Banff Lane, Surprise, AZ 85379
19. 26220 North 40th Place, Phoenix, AZ 85050
20. 3051 West Mexico Street, Tucson, AZ 85746
21. 3225 East Mountaineer Drive, Tucson, AZ

22. 3226 County Road 136, Saint Cloud, MN
23. 6207 West Winchomb Drive, Scottsdale, AZ
24. 1942 West 74th Street, Los Angeles, CA 90047
25. 10280 North 10th Avenue, Blythe, CA
26. 3330 South Gilbert Road, Unit 2091, Chandler, AZ

1 Mark A Nadeau (Bar No. 011280)  
mark.nadeau@dlapiper.com  
2 Cynthia A. Ricketts (Bar No. 012668)  
cindy.ricketts@dlapiper.com  
3 Allison L. Kierman (Bar No. 024414)  
allison.kierman@dlapiper.com  
4 DLA PIPER LLP (US)  
2525 East Camelback Road, Suite 1000  
5 Phoenix, AZ 85016-4232  
Tel: 480.606.5100  
6 Fax: 480.606.5101

7 Attorneys for Plaintiff  
FEDERAL NATIONAL MORTGAGE  
8 ASSOCIATION

9 UNITED STATES DISTRICT COURT

10 DISTRICT OF ARIZONA

11 FEDERAL NATIONAL MORTGAGE  
12 ASSOCIATION,

13 Plaintiff,

14 v.

15 Marshall E. Home; Independent Rights  
16 Party,

17 Defendant.

CASE NO. 2:11-cv-01227-DGC

**NOTICE OF LODGING OF FORM OF  
JUDGMENT**

18 Plaintiff FEDERAL NATIONAL MORTGAGE ASSOCIATION ("Fannie Mae")  
19 hereby files the attached Form of Judgment (Exhibit A) with the clerk of court, requesting  
20 judgment be entered on the Court's January 3, 2012 Order granting Fannie Mae's motion  
21 for attorneys' fees and costs and awarding Fannie Mae attorneys' fees in the amount of  
22 \$70,192.50 and non-taxable costs in the amount of \$1,219.00 [Doc. 52] plus interest at the  
23 rate of 12%.  
24  
25  
26  
27  
28

1 DATED this 13th day of January, 2012.

2 DLA PIPER LLP (US)

3  
4 By s/Allison L. Kierman

5 MARK A NADEAU

6 CYNTHIA A. RICKETTS

7 ALLISON L. KIERMAN

8 Attorneys for Plaintiff

9 FEDERAL NATIONAL MORTGAGE

10 ASSOCIATION

CERTIFICATE OF SERVICE

I hereby certify that on January 13, 2012, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing as well as via email.

Marshall E Home  
3051 W. Mexico St.  
Tucson, AZ 85746-2141

By: s/ Katherine Sieckman

# EXHIBIT A

Mark A Nadeau (Bar No. 011280)  
mark.nadeau@dlapiper.com  
Cynthia A. Ricketts (Bar No. 012668)  
cindy.ricketts@dlapiper.com  
Allison L. Kierman (Bar No. 024414)  
allison.kierman@dlapiper.com  
DLA PIPER LLP (US)  
2525 East Camelback Road, Suite 1000  
Phoenix, AZ 85016-4232  
Tel: 480.606.5100  
Fax: 480.606.5101

Attorneys for Plaintiff  
FEDERAL NATIONAL MORTGAGE  
ASSOCIATION

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

FEDERAL NATIONAL MORTGAGE  
ASSOCIATION,

Plaintiff,

v.

Marshall E. Home; Independent Rights  
Party,

Defendant.

CASE NO. 2:11-cv-01227-DGC

**JUDGMENT ON ATTORNEYS' FEES**

Plaintiff FEDERAL NATIONAL MORTGAGE ASSOCIATION ("Fannie Mae")  
hereby requests the Clerk of Court enter Judgment in Fannie Mae's favor and confirming  
the Court's January 3, 2012 Order granting Fannie Mae's motion for attorneys' fees and  
costs [Doc. 52].

Defendants Marshall E. Home and Independent Rights Party are hereby ordered to  
pay Fannie Mae attorneys' fees in the amount of \$70,192.50 and non-taxable costs in the

1 amount of \$1,219.00. Interest shall accrue on the outstanding balance of these amounts at  
2 the rate of 12% from January 3, 2012 until paid in full.

3 DATED this \_\_\_\_th day of January, 2012.  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28